

REMARKS

The allowance of Claims 9-18 is gratefully acknowledged.

Claims 2-5, 7 and 8 were objected to as depending upon a rejected base claim, but were said to be allowable if rewritten in independent form, which has been done. Claims 2 and 7 have been rewritten in independent form. Claims 3-5 and 8 depend from these now-independent claims. It is respectfully submitted that Claims 2-5, 7 and 8 are now allowable.

Claim 7 was objected to by reason of the lack of proper antecedent basis for "the non elastomeric thermoplastic" in line 2. In the rewriting of Claim 7 as described above, the claim has been amended to provide proper antecedent basis for this term. Accordingly it is respectfully submitted that Claim 7 is now in a proper form.

The Examiner's presumption that the subject matter of the claimed invention has been commonly owned at all relevant times is correct.

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by US Pat. 5,178,150 (Silverstein et al.) Claim 1 describes an ultrasonic probe including a thin-walled volume compensation balloon formed of a high performance thermoplastic material in fluid communication with the fluid chamber, the volume compensation balloon containing a small fraction of the fluid of the fluid chamber at room temperature. The Silverstein et al. probe has a bag 62 which slips over the distal end of the probe to provide the fluid chamber. The bag 62 does not contain "a small fraction of the fluid of the fluid chamber," it contains 100% of the fluid in the Silverstein et al. probe. As the Examiner points out, the fluid chamber/flexible bag and the compensation balloon are one and the same. Since Silverstein et al. fails to show or suggest a volume compensation balloon containing a small fraction of the fluid of the fluid chamber at any temperature, it follows that Silverstein et al. cannot anticipate Claim 1.

It is further noted that in the illustrated embodiment of the present invention shown in Figs. 2 and 3 it is seen that the volume compensation balloon is located inside the probe, where it is protected from contact with the patient and consequent damage. That is not the case in Silverstein et al., where the bag 62 is outside to form the fluid chamber. To emphasize this fact in the claim, the volume compensation balloon is stated to be located within the probe, not outside as is the case with Silverstein et al. It is respectfully submitted that this is another reason why Silverstein et al. cannot anticipate Claim 1.

Claim 6 was rejected as being obvious over Silverstein et al. Claim 6 depends from Claim 1, and it is respectfully submitted, for the reasons given above, that Claim 6 is patentable by reason of its dependency.

In light of the foregoing amendment and remarks, it is respectfully submitted that this application is now in condition for allowance. Favorable reconsideration is respectfully requested.

Respectfully submitted,

KEVIN WICKLINE ET AL.

By: /W. Brinton Yorks, Jr./
W. Brinton Yorks, Jr.
Reg. No. 28,923

Philips Electronics
22100 Bothell Everett Highway
P.O. Box 3003
Bothell, WA 98041-3003
(425) 487-7152
December 15, 2009